IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE K.K.DENESAN

THURSDAY, THE 30TH NOVEMBER 2006 / 9TH AGRAHAYANA 1928

WP(C).No. 4479 of 2006(G)

PETITIONER:

K.CHANDRAN, AGED 41 YEARS,
S/O.CHOYIKUTTY, ENNAMPALATH HOUSE,
P.O.CHEVAYOOR, KOZHIKODE.

OFFICIAL ADDRESS: PEON, O/O THE CHIEF ENGINEER, NORTHERN REGION
KERALA WATER AUTHORITY, KOZHIKODE

BY ADV. SMT.K.V.RESHMI

RESPONDENTS:

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1. THES TATE OF KERALA, REP. BY THE
SECRETARY, DEPARTMENT OF WATER AUTHORITY,
SECRETARIAT, THIRUVANANTHAPURAM.

2. THE KERALA WATER AUTHORITY DEPARTMENT,
REP. BY CHIEF ENGINEER, P.O.MALAPPARAMBA,
KOZHIKODE.

3. THE STATE OF KERALA, REP. BY THE
SECRETARY, DEPARTMENT OF SOCIAL WELFARE,
SECRETARIAT, THIRUVANANTHAPURAM.

R1 & 3 BY GOVT. PLEADER SHRI. BIJOY CHANDRAN
R2 BY ADV. SRI. J. KRISHNA KUMAR, SC, KWA

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 30/11/2006, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

K.K.DENESAN, J.

WP(C)No. 4479 OF 2006

Dated this the 30th November, 2006.

JUDGMENT

The petitioner is a physically challenged person. He had rendered service as Peon from 1.9.1998 to 26.2.1999. As per Ext.P2 order he was discharged on completion of 179 days of provisional service. The petitioner claims that he is entitled to get the benefit of Ext.P3 G.O dated 5.3.2005. As per the above G.O physically handicapped (temporary) employees who were engaged in public service through Employment Exchange under Rule 9(a)(i) of K.S & S.S.R during the period from 15.8.1998 to 15.8.1999 for 179 days will be reappointed in service. Going by the statement made by the petitioner in the writ petition he comes within the ambit of the above G.O.

2. The only contention that can possibly be taken against the petitioner is that appointment of the petitioner was not under Rule 9(a)(i) of K.S & S.S.R because the above rule does not apply to last grade service. However, the fact remains that his appointment was made through the Employment Exchange, which is evident from Ext.P2 discharge certificate. Provisional service for 179 days fall within the period prescribed in Ext.P3 G.O. Ext.P3 G.O cannot be understood as one which excludes the

last grade servants from enjoying the beneficial provisions thereof. To contend otherwise will be per se arbitrary and discriminatory. Petitioner is, therefore, entitled to get the benefit of the above G.O.

3. Representations filed by the petitioner did not evoke any response. It is in the above circumstances he has approached this Court. Reliefs prayed for in this writ petition are the following:-

> "a) Issue a writ of mandamus or any other appropriate writ,order or direction directing the 1st and 2nd respondents herein to re-appoint the petitioner in service in office of the 2nd respondent as Peon and to regularise with effect from the date of his rejoining the duty in compliance of the Ext.P3 Government Order.
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> b) Issue a writ of mandamus or any other appropriate writ, order or direction directing the 1st and 2nd respondents to consider and pass appropriate orders on Exts.P4, P5 and P7 representations within a stipulated time fixed by this Hon'ble Court."

4. Standing counsel for the Water Authority accepted notice for and on behalf of respondents 1 and 2 on 15.2.2006. This Court passed an order on 15.2.2006 directing the second respondent to file counter affidavit, if any, within one month. But no counter affidavit was filed. Adjournment sought for, for the above purpose, was granted by this Court. But there is no improvement in the situation. The petitioner who is a physically challenged person and has approached the Writ Court for the benefit of

Ext.P3 G.O, is made to wait.

5. The indifference shown by the second respondent is culpable. Officers of the Water Authority seem to be unsympathetic towards weaker and less fortunate sections of the society. They don't even care to file counter affidavit before this Court. This has to be deprecated. Taking into consideration the uncontroverted statements and averments in this writ petition as also the materials placed on record, I find no reason why the petitioner should not be granted the reliefs sought for by him. The writ petition is allowed. The second respondent is directed to reinstate the petitioner in service and to regularise his service. This shall be done, forthwith. The petitioner is entitled for costs also. The second respondent is directed to pay Rs.5,000/- as costs to the petitioner, with liberty to recoup the same from the Officers found responsible for culpable lethargy and indifference.

K.K.DENESAN
Judge

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